

Senate File 351

SENATE FILE _____
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 1157)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to child care requirements involving prohibitions
2 against involvement with child care, record checks and
3 evaluations performed by the department of human services,
4 eligibility for state assistance, and child care fraud program
5 sanctions, and making penalties applicable.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 1222SV 80
8 jp/cl/14

PAG LIN

1 1 Section 1. Section 237A.1, Code 2003, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 10A. "Involvement with child care" means
1 4 licensed or registered under this chapter, employed in a child
1 5 care facility, residing in a child care facility, receiving
1 6 public funding for providing child care, or providing child
1 7 care as a child care home provider, or residing in a child
1 8 care home.

1 9 Sec. 2. Section 237A.2, subsection 5, Code 2003, is
1 10 amended to read as follows:

1 11 5. If the department has denied or revoked a license
1 12 because the applicant or person has continually or repeatedly
1 13 failed to operate a licensed center in compliance with this
1 14 chapter and rules adopted pursuant to this chapter, the person
1 15 shall not own or operate a child care center for a period of
1 16 twelve months from the date the license is denied or revoked.
1 17 The department shall not act on an application for a license
1 18 submitted by the applicant or person during the twelve-month
1 19 period. The applicant or person shall be prohibited from
1 20 involvement with child care unless the involvement is
1 21 specifically permitted by the department.

1 22 Sec. 3. Section 237A.3, Code 2003, is amended to read as
1 23 follows:

1 24 237A.3 CHILD CARE HOMES.

1 25 1. A person or program providing child care to five
1 26 children or fewer at any one time is a child care home
1 27 provider and is not required to register under section 237A.3A
1 28 as a child development home. However, the person or program
1 29 may register as a child development home.

1 30 2. If a person or program has been prohibited by the
1 31 department from involvement with child care, the person or
1 32 program shall not provide child care as a child care home
1 33 provider and is subject to penalty under section 237A.19 or
1 34 injunction under section 237A.20 for doing so.

1 35 Sec. 4. Section 237A.3A, subsection 2, Code 2003, is
2 1 amended to read as follows:

2 2 2. REVOCATION OR DENIAL OF REGISTRATION. If the
2 3 department has denied or revoked a certificate of registration
2 4 because a person has continually or repeatedly failed to
2 5 operate a registered or licensed child care facility in
2 6 compliance with this chapter and rules adopted pursuant to
2 7 this chapter, the person shall not operate or establish a
2 8 registered child development home for a period of twelve
2 9 months from the date the registration or license was denied or
2 10 revoked. The department shall not act on an application for
2 11 registration submitted by the person during the twelve-month
2 12 period. The applicant or person shall be prohibited from
2 13 involvement with child care unless the involvement is
2 14 specifically permitted by the department.

2 15 Sec. 5. Section 237A.5, subsection 2, Code 2003, is
2 16 amended to read as follows:

2 17 2. a. ~~if a~~ For the purposes of this section, unless the
2 18 context otherwise requires:

2 19 (1) "Person subject to an evaluation" means a person who
2 20 has committed a transgression and who is described by any of

2 21 the following:

2 22 (a) The person is being considered for licensure or
2 23 registration ~~or is registered or licensed under this chapter,~~
2 24 ~~or.~~

2 25 (b) The person is being considered by a child care
2 26 facility for employment involving direct responsibility for a
2 27 child or with access to a child when the child is alone, ~~by a~~
2 28 ~~child care facility subject to licensure or registration under~~
2 29 ~~this chapter, or if a or is employed with such~~
2 30 ~~responsibilities.~~

2 31 (c) The person will reside ~~or resides~~ in a ~~child care~~
2 32 ~~facility, and if the person has been convicted of a crime or~~
2 33 ~~has a record of founded child abuse, the department shall~~
2 34 ~~perform an evaluation to determine whether the crime or~~
2 35 ~~founded child abuse warrants prohibition of licensure,~~
3 1 ~~registration, employment, or residence in the facility.~~

3 2 (d) The person has applied for or receives public funding
3 3 for providing child care.

3 4 (e) The person will reside or resides in a child care home
3 5 that is not registered under this chapter but that receives
3 6 public funding for providing child care.

3 7 (2) "Transgression" means the existence of any of the
3 8 following in a person's record:

3 9 (a) Conviction of a crime.

3 10 (b) A record of having committed founded child or
3 11 dependent adult abuse.

3 12 (c) Listing in the sex offender registry under chapter
3 13 692A.

3 14 (d) A record of having committed a public or civil
3 15 offense.

3 16 (e) The department has revoked a child care facility
3 17 registration or license due to the person's continued or
3 18 repeated failure to operate the child care facility in
3 19 compliance with this chapter and rules adopted pursuant to
3 20 this chapter.

3 21 b. The department shall conduct criminal and child abuse
3 22 record checks in this state and may conduct these checks in
3 23 other states. ~~The In addition, the department may conduct~~
3 24 ~~dependent adult abuse, sex offender registry, and other public~~
3 25 ~~or civil offense record checks in this state or in other~~
3 26 ~~states. If the department identifies an individual as a~~
3 27 ~~person subject to an evaluation, an evaluation shall be~~
3 28 ~~performed to determine whether prohibition of the person's~~
3 29 ~~involvement with child care is warranted. The evaluation~~
3 30 ~~shall be performed in accordance with procedures adopted for~~
3 31 ~~this purpose by the department.~~

3 32 b. ~~If the department determines that a person has~~
3 33 ~~committed a crime or has a record of founded child abuse and~~
3 34 ~~is licensed, employed by a licensee or registrant or~~
3 35 ~~registered under this chapter, or resides in a licensed or~~
4 1 ~~registered facility Prior to performing an evaluation, the~~
4 2 ~~department shall notify the affected person, licensee, or~~
4 3 ~~registrant, or child care home applying for or receiving~~
4 4 ~~public funding for providing child care, that an evaluation~~
4 5 ~~will be conducted to determine whether prohibition of the~~
4 6 ~~person's licensure, registration, employment, or residence~~
4 7 ~~involvement with child care is warranted.~~

4 8 c. In an evaluation, the department shall consider the
4 9 nature and seriousness of the ~~crime or founded child abuse~~
4 10 ~~transgression~~ in relation to the position sought or held, the
4 11 time elapsed since the commission of the ~~crime or founded~~
4 12 ~~child abuse transgression~~, the circumstances under which the
4 13 ~~crime or founded child abuse transgression~~ was committed, the
4 14 degree of rehabilitation, the likelihood that the person will
4 15 commit the ~~crime or founded child abuse transgression~~ again,
4 16 and the number of ~~crimes or founded child abuses~~
4 17 ~~transgressions~~ committed by the person involved. ~~In addition~~
4 18 ~~to record check information, the department may utilize~~
4 19 ~~information from the department's case records in performing~~
4 20 ~~the evaluation. The department may permit a person who is~~
4 21 ~~evaluated to be licensed, registered, employed, or to reside,~~
4 22 ~~or to continue to be licensed, registered, employed, or to~~
4 23 ~~reside in a licensed facility maintain involvement with child~~
4 24 ~~care, if the person complies with the department's conditions~~
4 25 ~~and corrective action plan relating to the person's licensure,~~
4 26 ~~registration, employment, or residence, which may include~~
4 27 ~~completion of additional training involvement with child care.~~
4 28 The department has final authority in determining whether
4 29 prohibition of the person's ~~licensure, registration,~~
4 30 ~~employment, or residence involvement with child care is~~
4 31 warranted and in developing any conditional requirements and

4 32 corrective action plan under this paragraph.

4 33 d. If the department determines that the person has
4 34 committed a crime or has a record of founded child abuse which
4 35 warrants prohibition of licensure, registration, employment,
5 1 or residence, the person shall not be licensed or registered
5 2 under this chapter to operate a child care facility and shall
5 3 not be employed by a licensee or registrant or reside in a
5 4 facility licensed or registered under this chapter.

5 5 d. (1) A person subject to an evaluation shall be
5 6 prohibited from involvement with child care if the person has
5 7 a record of founded child or dependent adult abuse that was
5 8 determined to be sexual abuse, the person is listed on the sex
5 9 offender registry under chapter 692A, or the person has
5 10 committed any of the following felony-level offenses:

5 11 (a) Child endangerment or neglect or abandonment of a
5 12 dependent person.

5 13 (b) Domestic abuse.

5 14 (c) A crime against a child including but not limited to
5 15 sexual exploitation of a minor.

5 16 (d) A forcible felony.

5 17 (2) If, within five years prior to the date of application
5 18 for registration or licensure under this chapter, for
5 19 employment or residence in a child care facility or child care
5 20 home, or for receipt of public funding for providing child
5 21 care, a person subject to an evaluation has been convicted of
5 22 a controlled substance offense under chapter 124 or has been
5 23 found to have committed physical abuse, the person shall be
5 24 prohibited from involvement with child care for a period of
5 25 five years from the date of conviction or founded abuse.
5 26 After the five-year prohibition period, the person may submit
5 27 an application for registration or licensure under this
5 28 chapter, or to receive public funding for providing child care
5 29 or may request an evaluation, and the department shall perform
5 30 an evaluation and, based upon the criteria in paragraph "c",
5 31 shall determine whether prohibition of the person's
5 32 involvement with child care continues to be warranted.

5 33 e. If the department determines, through an evaluation of
5 34 a person's transgression, that the person's prohibition of
5 35 involvement with child care is warranted, the person shall be
6 1 prohibited from involvement with child care. The department
6 2 may identify a period of time after which the person may
6 3 request that another record check and evaluation be performed.

6 4 A person who continues involvement with child care in
6 5 violation of this subsection is subject to penalty under
6 6 section 237A.19 or injunction under section 237A.20.

6 7 e. f. If it has been determined that a child receiving
6 8 child care from a child care facility or a child care home
6 9 which receives public funding for providing child care is the
6 10 victim of founded child abuse committed by an employee,
6 11 license or registration holder, child care home provider, or
6 12 resident of the child care facility or child care home for
6 13 which a report is placed in the central registry pursuant to
6 14 section 232.71D, the administrator shall provide notification
6 15 at the time of the determination to the parents, guardians,
6 16 and custodians of children receiving care from the facility or
6 17 child care home. A notification made under this paragraph
6 18 shall identify the type of abuse but shall not identify the
6 19 victim or perpetrator or circumstances of the founded abuse.

6 20 Sec. 6. Section 237A.5, subsections 3 and 6, Code 2003,
6 21 are amended by striking the subsections.

6 22 Sec. 7. Section 237A.13, subsection 1, paragraph d, Code
6 23 2003, is amended to read as follows:

6 24 d. The child's parent, guardian, or custodian is absent
6 25 for a limited period of time due to hospitalization, physical
6 26 illness, or mental illness, or is present but is unable to
6 27 care for the child for a limited period as verified by a
6 28 physician.

6 29 Sec. 8. Section 237A.13, subsection 4, Code 2003, is
6 30 amended by adding the following new paragraph:

6 31 NEW PARAGRAPH. d. A child in a family that is eligible
6 32 for state child care assistance and that receives a state
6 33 adoption subsidy for the child.

6 34 Sec. 9. Section 237A.19, Code 2003, is amended by adding
6 35 the following new subsection:

7 1 NEW SUBSECTION. 3. A person who establishes, conducts,
7 2 manages, or operates a child care home in violation of section
7 3 237A.3, subsection 2, or a person or program that has been
7 4 prohibited by the department from involvement with child care
7 5 but continues that involvement commits a simple misdemeanor.
7 6 Each day of continuing violation after conviction, or notice
7 7 from the department by certified mail of the violation, is a

7 8 separate offense. A single charge alleging continuing
7 9 violation may be made in lieu of filing charges for each day
7 10 of violation.
7 11 Sec. 10. Section 237A.20, Code 2003, is amended to read as
7 12 follows:
7 13 237A.20 INJUNCTION.
7 14 A person who establishes, conducts, manages, or operates a
7 15 center without a license or a child development home without a
7 16 certificate of registration, if registration is required under
7 17 section 237A.3A, may be restrained by temporary or permanent
7 18 injunction. A person who has been convicted of a crime
7 19 against a person, ~~or a person with a record of founded child~~
7 20 ~~abuse, or a person who has been prohibited by the department~~
7 21 ~~from involvement with child care~~ may be restrained by
7 22 temporary or permanent injunction from providing unregistered,
7 23 registered, or licensed child care ~~or from other involvement~~
7 24 ~~with child care~~. The action may be instituted by the state,
7 25 the county attorney, a political subdivision of the state, or
7 26 an interested person.
7 27 Sec. 11. Section 237A.29, subsection 2, paragraph b, Code
7 28 2003, is amended to read as follows:
7 29 b. A child care provider that has been found by the
7 30 department of inspections and appeals in an administrative
7 31 proceeding or in a judicial proceeding to have obtained, or
7 32 has agreed to entry of a civil judgment or judgment by
7 33 confession that includes a conclusion of law that the child
7 34 care provider has obtained, by fraudulent means, public
7 35 funding for provision of child care in an amount equal to or
8 1 in excess of the minimum amount for a fraudulent practice in
8 2 the second degree under section 714.10, subsection 1, shall be
8 3 subject to sanction in accordance with this subsection. Such
8 4 child care provider shall be subject to a period during which
8 5 receipt of public funding for provision of child care is
8 6 conditioned upon no further violations and to one or more of
8 7 the following sanctions as determined by the department ~~and~~
8 8 ~~imposed in an administrative proceeding of human services:~~
8 9 Sec. 12. Section 237A.29, subsection 3, paragraphs a and
8 10 b, Code 2003, are amended to read as follows:
8 11 a. If a child care provider is subject to sanctions under
8 12 subsection 2, within five business days of the date the
8 13 sanctions were imposed, the provider shall submit to the
8 14 department the names and addresses of children receiving child
8 15 care from the provider. The department shall send information
8 16 to the parents of the children regarding the provider's
8 17 actions leading to the imposition of the sanctions and the
8 18 nature of the sanctions imposed. ~~If the provider fails to~~
8 19 ~~submit the names and addresses within five business days of~~
8 20 ~~the department notifying the provider, the department shall~~
8 21 ~~suspend the provider's registration or license under this~~
8 22 ~~chapter until the names and addresses are provided.~~
8 23 b. ~~In addition to applying the suspension~~ If the child
8 24 care provider fails to submit the names and addresses within
8 25 the time period required by paragraph "a", the department may
8 26 shall request that the attorney general file a petition with
8 27 the district court of the county in which the provider is
8 28 located for issuance of a temporary injunction enjoining the
8 29 provider from providing child care until the names and
8 30 addresses are submitted to the department. The attorney
8 31 general may file the petition upon receiving the request from
8 32 the department. Any temporary injunction may be granted
8 33 without a bond being required from the department.
8 34 SF 351
8 35 jp/cc/26